

Submission No.			302	
Organisation Name or Name of Submitter			Townsend Apartment Management Company Limited	
Item No.	Section Ref.	Page No.	Observation Statement	TII Response
Reference Number: ML60-A10. Townsend Apartment Management Company				
1	Intro	1	We act on behalf of the above client who has been served with notice of the making of the above Railway Order Application. Our client is the Owners Management Company for the College Gate property which has been included in the Railway Order Application. Having reviewed the drawings and documentation accompanying same, our client has instructed us to object to the confirmation of the Metrolink Railway Order Application and all of the supporting documentation to include the proposal Railway Works and Land Requirements, the Book of Reference, the EIAR and the Natura Impact Statement on the following grounds:	TII appreciate the submission and provide the following comments in response to the matters raised.
2	Project Need	1	As currently designed, this project is excessive and is leading to a significant overspending versus alternatives. The requirement in relation to increased use of public transport could be met in alternatives ways that would have been much less costly and at the end of the day, would have been better than the Metrolink as it is currently proposed.	<p>TII disagree and have demonstrated the benefits in both the EIAR and the approved business case.</p> <p>Chapter 03 (Background to the MetroLink Project) details the overall need for the Project, and how MetroLink will address a number of current challenges, including compact growth, sustainable mobility, enhanced regional connectivity, quality international connectivity, transition to a low carbon and climate-resilient society, enhanced amenity and heritage, maximising sustainability gains, strong economy supported by enterprise innovation and skills, access to quality childcare, education and health services, and strengthened rural economies and communities.</p> <p>Chapter 07 (Consideration of Alternatives) presents the decision-making process that has led to the development of the proposed Project, including the consideration of alternative transport options. The options assessed included for heavy rail, light rail, Bus Rapid Transit (BRT) options in addition to combination options. The short-listed options were subject to assessment by way of a Multi-Criteria Analysis (MCA) having regard to Environment, Economy, Safety, accessibility and Social Inclusion and Integration.</p> <p>The assessment identified an Optimised Metro North as the best medium-and long-term transport project for the Greater Dublin Area for the following reasons:</p> <ul style="list-style-type: none">* It was the most economically advantageous scheme when compared to other options, delivering the highest benefit to cost ratio (BCR) of 1.5, almost double the BCR of the next best scheme (tunnelled Luas);* It generated the highest level of transport benefits when compared to other options, with the highest number of additional public transport trips generated in the morning peak travel period;* It provided a new strategic public transport corridor, avoiding reliance on either the existing heavy rail lines or the Luas Cross City line;* It delivered a connection right into the centre of the city, serving O'Connell Street and St. Stephen's Green;* It retained the opportunity to extend Luas Cross-City to Finglas, which would not be feasible if the tunnelled Luas options were selected, and it avoided reducing the service level on Luas Cross City to Cabra and Broombridge;* Due to the high level of segregation, it was considered to significantly increase capacity to allow for potential future growth along the corridor, when compared to other options;* It could potentially extend southwards in the longer term to alleviate high travel demand on the Luas Green Line and ultimately form a complete north south metro corridor traversing both the north and south city; and,* This option delivered the highest safety benefits when compared to other options. <p>The business case for the Project has been Approved in Principle by Government in line with the Public Spending Code, based on economic and financial appraisals undertaken in a range of scenarios. The assessment finds that MetroLink is a very positive investment for the people of Ireland, in the country's journey to a low carbon and more sustainable transport network. TII as the Government Agency responsible for delivering MetroLink, are committed to expediting the delivery of this transformative project on receipt of an Enforceable Railway Order, to ensure the benefits of MetroLink can be realised as soon as possible.</p>
3	Economic Analysis of Metrolink Versus Alternatives	1	The projected total budget cost of the Metrolink Project is extremely high versus other infrastructure capital projects. Analysis is showing that alternatives would have been able to deliver a similar or higher overall benefit and at a lower cost. Therefore, the economic cost benefit analysis on the Metrolink Project should mean that the project should not be progressed in its current form.	Please refer to response (2) above in relation to the consideration of alternatives, the reasons that the Proposed Project was selected as the preferred option, and the economic assessments undertaken.

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4	Route Selection	1	Even if one assumed that the Metrolink project was needed and it did stand up to economic analysis, the route chosen is flawed. Better alternative routes were available to the Designers.	<p>Metrolink is needed and the economic analysis has been reviewed and approved. In July 2022, the Government granted Approval in Principle to the NTA to enable the submission of a railway order application by TII to An Bord Pleanála in respect of the Metrolink project (Decision Gate 1). This approval was granted after the Preliminary Business Case (PBC) had undergone significant scrutiny and challenge by bodies that are independent of TII, including DoT and DPER review (including independent review by JASPERS and the Major Projects Advisory Group (MPAG)) of the PBC around timeline, costs and benefits that were updated to inform the Government decision.</p> <p>Chapter 07 (Consideration of Alternatives) presents the decision-making process that has led to the development of the proposed Project, including the route selection process. The NTA and TII commissioned an Alignment Options Study to determine the Emerging Preferred Route (EPR) for New Metro North proposed in the Transport Strategy for the GDA. The New Metro North Alignment Options Report (TII, 2018), and all relevant appendices can be reviewed at www.metrolink.ie.</p> <p>The study area was based around a corridor from Swords to Dublin City Centre via Dublin Airport, in line with the Project's objective as identified in the Transport Strategy for the GDA. The overall study area was broken into three sections, with a number of station location options proposed within. Based on the conclusions of the MCA, Option 9 was recommended as the EPR for NMN for the following primary reasons:</p> <ul style="list-style-type: none">* In terms of Economy, it delivers substantially more benefits than most of the options resulting in the joint highest BCR;* It performs among the best in terms of public transport usage i.e. boardings over 24 hours;* It integrates better with the wider transport network with better potential for seamless interchange with other modes, particularly heavy rail in the city centre and bus in Swords, than other options considered;* It integrates better with current Land Use Policy particularly in Ballymun and Swords; and* In terms of Environment, while there are some impacts in terms of Landscape and Visual and Archaeology, Architecture and Cultural Heritage, these impacts can largely be mitigated. <p>Submissions made by stakeholders and the public during the Public Consultation in 2018 on the EPR were carefully analysed. Taken together with other proposed route alignment and design improvements, design responses to consultation submissions have resulted in a number of changes to the EPR leading to a Preferred Route, including alterations to the alignment which led to alternative station locations:</p> <ul style="list-style-type: none">* Realignment of the EPR at Lissenhall;* Realignment of the EPR along the R132 Swords Bypass through Swords;* Realignment of the EPR over the M50 Motorway and to Ballymun;* Realignment of the EPR at O'Connell Street Station; and,* Alignment under Trinity College Dublin (TCD). <p>Chapter 07 also provides an outline on a station-by-station basis of alternative station locations, layout or design changes. For full details of the analysis undertaken, please refer to the Metrolink Preferred Route Design Development Report (TII, 2019), available at www.metrolink.ie.</p>

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5	Mitigation of Impacts on the Human Environment	1	<p>In the case of the College Gate Apartment Complex and the Owners Management Company (i.e. Townsend Apartment Management Company Limited by Guarantee) the proposed impact mitigations put forward by the Acquiring Authority are seriously flawed and inadequate. The common areas of the complex and the overall property has been severely blighted since the route for the Metrolink project was decided and it was clear that the College Gate Complex was within the preferred route for the scheme and would have to be demolished should the scheme proceed on foot of a Railway Order as submitted. It was open to the Acquiring Authority to step forward at that stage and immediately offer to fully deal comprehensively with all of the individual owners in the complex and the Owners Management Company with a comprehensive suite of measures. These would include an offer of adequate full compensation to each owner and other measures such as immediate advance payments to the Owners Management Company to upkeep the common areas. It would have been open to owners to sell at that stage to the Acquiring Authority, if they so choose.</p> <p>This has not been forthcoming from the Acquiring Authority and the complex has remained blighted and the lives of the owners severely impacted since the route for the Metrolink was chosen. Contrary to what has been stated publicly, there is nothing in law to stop the Acquiring Authority in this case doing the right thing, that being to have stepped in immediately and dealt comprehensively with a suite of measures for the College Gate Complex including a full purchase offer for owners wishing to sell and move on with their lives. The early negotiations optional proposal put forward by the TII is a totally unsatisfactory proposal and is deeply flawed in many respects. It is not an adequate mitigation offer. Mitigation is critical in relation to all impacts of a scheme.</p>	<p>TII has held a series of non statutory public consultation meetings and correspondence with the College Gate appointed property management agents, Directors of the Owners Management Company (OMC), and individual apartment owners, over the past number of years. Engagement, including one to one information sessions, were arranged in order to provide a platform for direct engagement between TII and parties with a legal interest in the apartment development.</p> <p>As part of our Land Acquisition Strategy, detailed in section 21.6.1.3 of Chapter 21 (Land Take), TII has introduced a discretionary scheme to encourage early engagement through the discretionary process prior to confirmation of a Railway Order and service of a Notice to Treat. The intention is to enter into a pre-agreement with residential property owners to agree a baseline apartment price and other matters of compensation, which will be payable under the compensation code. This will be determined at an early date and provides a commitment from TII to agree terms, ahead of the statutory process, locking in a baseline apartment price, with an agreement to apply an index to reflect any future uplift. The scheme will accelerate the acquisition process following an enforceable Railway Order avoiding the potential for negotiations to be drawn out at a later stage. TII advocates that residential property owners are professionally advised and as part of the process have agreed to meet all reasonable professional fees and costs in relation to the negotiation and settlement of the apartment owners legal interest. The scheme does not prejudice property owners nor are they obligated to participate. Residential property owners will continue to be responsible for discharging all contractual obligations under the terms of their long leasehold interest until the acquisition of their property interest has been completed.</p> <p>TII have appointed external property consultants to assist them with the implementation of the discretionary scheme. This also ensures that engagement with residential property owners continues and concerns can be addressed where practicable. Further details on TII's Land Acquisition Strategy can be viewed on the Your Property section of the MetroLink website together with a Compulsory Purchase Order (CPO) Guideline FAQ document https://www.metrolink.ie. TII will continue to be available to engage with Directors of the OMC and / or its appointed property management agents or other appointed consultant, where necessary, as the MetroLink progresses.</p>	
6	Time Frames and Funding	2	<p>There is a lack of clarity with regard to time frames and funding for the Metrolink Project. There is no clarity with regard to the approval process and how long this will take. While this is ongoing, the severe blight on the College Gate Complex will continue and the hardship placed on the owners and the Owners Management Company will continue. This is wrong.</p>	<p>TII as the Government Agency responsible for delivering MetroLink, are committed to expediting the delivery of this transformative project on receipt of an Enforceable Railway Order. Upon approval, the construction phase is anticipated to last approximately 9 years, with the MetroLink planned to be operational in 2035. See response to point (4) in relation to when approval was granted to enable the submission of the railway order application.</p> <p>The Non-Technical Summary (submitted as part of the Railway Order) outlines the Railway Order process, including how An Bord Pleanála will consider the feedback/submissions received during the statutory public consultation process. It is likely at this stage that The Board will call an Oral Hearing prior to making a decision on the application, however this is at the absolute discretion of An Bord Pleanála under section 42 of the Transport (Railway Infrastructure) Act 2001. The Oral Hearing is a process whereby TII and its specialists are given an opportunity to present evidence on the proposed Project and on submissions received. There is also an opportunity for The Board and parties who made submissions during the statutory consultation process to question TII and its specialists. Following this process, and based on information available to The Board, they will make a decision on the application.</p>	
7	Oral Hearing	2	<p>All of the points raised above can be fully addressed at an Oral Hearing which we request be held in relation to the Metrolink project. The above is only a basic outline of some of the points that are relevant to our client and these points will be further elaborated on and additional points raised at the Oral Hearing, as more information becomes available.</p>	<p>Please refer to response item (6) above in relation to the Oral Hearing process. Further information is available at www.pleanala.ie/en-ie/oral-hearings</p>	

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8	Capital Gains Tax	2	The Principle of Equivalence is being severely breached in the case of apartment owners who are investors and not in occupation. This is due to the anomaly of Capital Gains Tax being payable on compensation. The Acquiring Authority are aware of this matter but have not resolved it.	Where an entitlement to statutory compensation exists, each claim will be assessed on its own merits. The assessment of compensation and relevant heads of claim are derived from a combination of statute, case law and established practices which are referred to as the compensation code. There needs to be casual connection between the loss and the acquisition due to the scheme, which should not be remote. Claimants are expected to take reasonable steps to mitigate their loss and cannot claim any unavoidable losses. Experienced professionals should advise on the relevant heads of claim which commonly include the following: (i) value of legal interest in land e.g. freehold or leasehold (ii) severance or other injurious affection which relates to the devaluation of the retained lands (iii) disturbance and other matters including professional fees and losses sustained or expenses incurred by an owner as a result of the acquisition of land.
9	Additional Grounds of Objection	2	We reserve the right to include other grounds of objection and to elaborate on the above listed grounds of objection and to tender these at the An Board Pleanála Oral Hearing which we request be held.	Please refer to response item (6) and (7) above in relation to the Oral Hearing process.